

LAW OFFICE OF  
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September 7, 2004

BY FAX AND REGULAR MAIL

Hon. Bradley A. Smith  
Chairman  
Federal Election Commission  
999 E. St, NW  
Washington, DC 20463

Dear Chairman Smith:

I represent the Committee for a Unified Independent Party ("CUIP") and have written to you previously concerning the coordinated nationwide effort by the Democratic Party to deny Ralph Nader a place on the ballot. CUIP and its President, Lenora B. Fulani, have also filed a formal complaint with the Federal Election Commission concerning this. (MUR # 5509)

I write at this time to urge the FEC to become involved, in an *amicus* or other capacity, in litigation against Nader that threatens to undermine the careful framework the Commission has established over the years to respect the rights of minor parties and independent candidates and the process by which a minor party can grow and develop.

Recently a three-judge panel of the Commonwealth Court of Pennsylvania ruled Nader off the ballot in that state on the grounds that his acceptance of the Reform Party nomination in Michigan made him ineligible to gain ballot status in Pennsylvania as an independent under a "sore loser" statute which the court said was designed to prevent candidates from appearing on the ballot as independents if they have sought nomination by a political party in the same election cycle. *In re Nader*, 2004 WL 1921152 (Pa.Cmwltth.)

In addition, litigation has been threatened in Florida and Mississippi to prevent Nader from running on the Reform Party line on the grounds that Reform no longer constitutes a national party, despite its having been recognized as such by the FEC. In Florida an additional grounds advanced by the challengers is that Reform initially held its nominating convention by conference call. An in person convention was subsequently held, and the nomination ratified.

The proceeding before the Pennsylvania Court and the threatened proceedings in FL and MS can create a situation where it is impossible for a candidate or a party to run a national campaign that aggregates ballot status and non-ballot status states. This is directly contrary to the criteria established by the Commission for both the granting of primary matching funds and the

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achievement of the 5 percent threshold for general Election funding.

It would be most important for the Commission to alert the respective Courts to these dangers and to set forth for the Courts' consideration the important national policies involved. As I am sure you understand, events are moving swiftly. It is expected that briefs will be filed with the PA Supreme Court on or before September 9, 2004.

I would be happy to discuss this situation with you or your representative at any time.

Sincerely yours,

Harry Kresky

cc: Lawrence Norton  
General Counsel  
(By fax and fcm)

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